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10/534,410	05/11/2005	Koichi Shibata	101790.56290US	7171

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER	
EASWARAN, DAVID S	
ART UNIT	PAPER NUMBER
3689	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/534,410	SHIBATA ET AL.	
	Examiner	Art Unit	
	DAVID S. EASWARAN	3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 June 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 4-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 4-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 May 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. This action is in reply to the amendment filed on 6/29/2009.

2. Claims 1 and 4 – 12 have been amended.

3. Claims 2 and 3 have been canceled.

4. Claims 1 and 4 – 12 are currently pending and have been examined.

Response to Amendment

5. The objection to claim 6, presented in the previous office action, has been overcome by amendment.

6. The 112 2nd paragraph rejection of claim 3, presented in the previous office action, is moot in view of the cancellation of the claim.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims state that a user selects *a desired work content from the work contents displayed*. However, this language is certainly vague and indefinite. It appears that applicant intends the phrase to mean that a user selects a single desired work content from the set of options displayed by the user's terminal. However, as written, the word "from" can have a different modifying meaning than the phrase "from the set of." Therefore, to overcome this rejection, applicant must amend the claim to remove any ambiguity with respect to the manner in which the term "from" is used here; specifically, applicant should clarify that a user is selecting a single work content from the set of work contents displayed to the user.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For a claim to be interpreted as an apparatus it must have some physical structure. See *In re Nuijten*, 84 USPQ2d 1495, 1501 (Fed. Cir. 2007) ("The Supreme Court has defined the term 'machine'

as 'a concrete thing, consisting of parts, or of certain devices and combination of devices."). Here, applicant claims a "program product...comprising computer-executable steps," which is, in fact, merely software. However, software does not have a physical embodiment. See *Microsoft v. AT&T*, 82 USPQ2d 1400, 1403 (2007) ("Abstract software code is an idea without physical embodiment."). Because the claim limitations recite only software and do not incorporate any physical structure, the claim does not fall within a statutory category under 35 U.S.C. 101.

Art Rejections

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 10 – 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kasahara (US 2003/0040928 A1, hereinafter Kasahara).

Claim 10:

Kasahara discloses the following:

- *an input device that enters a work content of the construction work as prompted in a screen brought up on display* (See at least paragraph 0089, showing that a child registration process begins with the system bringing up a relevant screen on the user's terminal. Further clarification is presented in the arguments section below, but the "of the construction work" language does not serve to patentably distinguish this claim limitation from the prior art because this language is non-functional descriptive material.);
- *a recognition device that recognizes the work content entered via the screen brought up on display* (See at least paragraph 0090, showing the server waiting for the child registration information to be returned by the user.);
- *a transmission device that transmits the recognized work content to a server* (See at least paragraphs 0048 and 0049, describing that the transmission device contemplated is network adaptors connected via the Internet.);
- *a reception device that receives information indicating a plurality of types of devices matching the work content and rental information related to the devices, which are searched at the server based upon the work content;* (See at least paragraph 0115, showing the CPU extracting matches from the article master table. Further see at least paragraph 0117, showing the CPU generating an article selection screen with all of the results.) *and*

- *a display device that displays a screen in which the work content are entered and that brings up a display of the information indicating the plurality of types of devices and their rental information that have been received* (See at least paragraph 0047 describing the user terminal, which includes a display device. Further see at least paragraph 0117, last sentence, showing that the CPU transmits the results of the article master table search above to the user terminal.).

Claim 11:

Kasahara discloses the following:

- *generating and displaying a screen in which a work content of the construction work is entered* (See at least paragraph 0089, showing that a child registration process begins with the system bringing up a relevant screen on the user's terminal. Child registration information is a type of work content, as understood in the application. Further clarification is presented in the arguments section below, but the "of the construction work" language does not serve to patentably distinguish this claim limitation from the prior art because this language is non-functional descriptive material.);
- *recognizing the work content entered in the screen brought up on display* (See at least paragraph 0090, showing the server waiting for the child registration information to be returned by the user.);

- *transmitting the recognized work content to the server* (See at least paragraphs 0048 and 0049, describing that the transmission device contemplated is network adaptors connected via the Internet.)*;*
- *receiving information indicating a plurality of types of devices matching the work content and rental information related to the devices, which are searched based upon the transmitted work content* (See at least paragraph 0115, showing the CPU extracting matches from the article master table. Further see at least paragraph 0117, showing the CPU generating an article selection screen with all of the results.)*; and*
- *generating and displaying a screen displaying the information indicating the devices and the rental information that have been received* (See at least paragraph 0047 describing the user terminal, which includes a display device. Further see at least paragraph 0117, last sentence, showing that the CPU transmits the results of the article master table search above to the user terminal.).

Claim 12:

Kasahara discloses the following:

- *a database in which information indicating at least a plurality of types of devices and rental information corresponding to the devices are stored in memory in correspondence to a work content of the construction work* (See at least paragraph 0066, describing the rental master table, which

stores all of the items that are currently rented and associates each with the child to whom it is rented. Further clarification is presented in the arguments section below, but the "of the construction work" language does not serve to patentably distinguish this claim limitation from the prior art because this language is non-functional descriptive material.)*;*

- *a recognition device that recognizes a work content transmitted from a terminal* (See at least paragraph 0090, showing the server waiting for the child registration information to be returned by the user.)*;*
- *a search device that searches the database based upon the recognized work content to obtain information indicating a plurality of types of devices and rental information related to the devices in correspondence to the recognized work content* (See at least paragraph 0115, showing the CPU extracting matches from the article master table. Further see at least paragraph 0117, showing the CPU generating an article selection screen with all of the results.)*; and*
- *a transmission device that transmits the information indicating the devices and the rental information thus obtained to the terminal* (See at least paragraph 0117, last sentence, showing that the CPU transmits the results of the article master table search above to the user terminal.).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasahara (US 2003/0040928, hereinafter Kasahara) in view of Fukushima et al. (JP-2002-157302 A, hereinafter Fukushima) and further in view of Sol ((*Introduction to Databases for the Web: Pt. 1*, hereinafter Sol).

Claim 1:

Kasahara discloses the following:

- *the management server comprises:*

- *a first database in which work contents are stored* (See Kasahara paragraph 0058, disclosing the child master table 32, which contains the child information. The child information of Kasahara is the work content.);
- *a second database in which rental information with regard to rental devices is stored* (See Kasahara paragraph 0066, disclosing the rental master table 36.); *and*
- *a third database in which specification information with regard to the rental devices is stored* (See Kasahara Figure 9 and associated paragraph 0064, disclosing the article master table, which includes specification information regarding the articles.),

- *the rental estimation method comprising:*
  - *displaying the work contents arranged in the hierarchical layers of the major division, the division and the sub-division on the customer terminal* (See Kasahara paragraph 0089, stating that "CPU 21 transmits the child registration screen 55 to the user terminal 10, and thereafter advances," which shows that the work contents information – the child information from Kasahara – is displayed to the user. Further see Figure 17, showing an image of this screen.);
  - *receiving a selection of a desired work content from the work contents displayed on the customer terminal* (See Kasahara

paragraph 0090, showing the user entering information regarding the child for whom clothing will be rented.);

- *receiving a selection of a device to be rented from the reported list of the necessary devices* (See Kasahara paragraph 0118, where the user selects clothing to be rented.); *and*
- *allowing a device other than a device in the list of necessary devices to be added as a device to be rented* (See at least paragraph 0118, showing that the user can select various items for rental.).

Kasahara does not specifically disclose the following:

- that the first database is a three-level hierarchical database;
- that the first database includes *a list of a plurality of necessary devices corresponding to each work content is stored;*
- *reading out a list of a plurality of necessary devices matching the selected work content and rental information corresponding to the listed necessary devices from the first database and the second database and reporting the read out list of necessary devices and rental information to the customer;*

Although Kasahara does not specifically disclose that the first database is a three-level hierarchical database, Sol shows that the hierarchical database data structure is old and well known in the art (See Sol page 1, explaining what a hierarchical database is and how it works.). It would have been obvious for one

of ordinary skill in the art at the time of the invention for the first database to be a three-level hierarchical database, because use of such a data storage technique can actually save memory space, as redundant information is minimized (for example, rather than store that each child is male or female, these designations can be categorical nodes in the hierarchical database, such that any data points beneath either node in the three structure will implicitly be categorizes as male or female, but will not need to store individualized information specifically stating as much.). Further, see Sol page 1, stating that the hierarchical model "is much more efficient than the flat-file model...because there is not as much need for redundant data. If a change in the data is necessary, the change might only need to be processed once." This passage shows that the hierarchical database structure has several real-world benefits over a standard relational database.

While Kasahara does not specifically disclose including in the first database a list of the necessary devices, and reading out the list, see at least paragraph 0117, showing the CPU generating and displaying to the user a listing of all articles of clothing matching the user-entered information regarding a child. The articles of clothing displayed by Kasahara are not necessary, per se, but inclusive of everything that may fit a particular child.

In addition, Fukushima discloses a system that lists only the necessary devices required to perform the work described to it by the user (See at least Fukushima, paragraph 0007 and Claim #8).

It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the necessary-device-only data storage and displaying mechanism of Fukushima with the rental system of Kasahara (by, for example, storing in the first database and subsequently displaying a list of essential clothing items – pants, shirts, one-piece outfits, etc. – while also creating a separate list of accessory items that are not necessary but may be useful – gloves, hats, etc.), because such a combination would provide greater ease-of-use to the customer, thereby increasing the value and marketability of the product.

Claim 4:

The rejection of claim 1 above is incorporated herein. Kasahara further discloses *making a rental reservation for renting the device selected through the device selection and the device added through the device addition* (See at least paragraph 0019 describing the rental application created and sent to the user to create the reservation)*; and accepting the reservation thus made* (See at least paragraph 0121, where the reservation is accepted and processed.).

Claim 5:

Kasahara discloses the following:

- *a first database in which work contents are stored* (See Kasahara paragraph 0058, disclosing the child master table 32, which contains the child information. The child information of Kasahara is the work content.);
- *a second database in which rental information with regard to rental devices is stored* (See Kasahara paragraph 0066, disclosing the rental master table 36.); *and*
- *a third database in which specification information with regard to the rental devices is stored* (See Kasahara Figure 9 and associated paragraph 0064, disclosing the article master table, which includes specification information regarding the articles.),
- *a display device that displays the work contents arranged in the hierarchical layers of the major division, the division and the sub-division* (See Kasahara paragraph 0089, stating that "CPU 21 transmits the child registration screen 55 to the user terminal 10, and thereafter advances," which shows that the work contents information – the child information from Kasahara – is displayed to the user. Further see Figure 17, showing an image of this screen.);
- *a data input device through which a rental customer selects a desired work content from the work contents displayed on the display device* (See Kasahara paragraph 0105, and associated Figure 21, showing that the user enters the name of the child to select the desired child.);

- *a reporting device that provides the information read out by the rental management server to a customer* (See at least paragraph 0117, last sentence, showing that the article selection screen, which contains the list of matching items, is transmitted to the user terminal.),
- *wherein the data input device operates to select a device to be rented from the list of the necessary devices reported by the reporting device* (See Kasahara paragraph 0117, stating that "this article selection screen 58 contains, for every article…a check box 58d into which the member inputs check mark when selecting the article."), *and allows a device other than the necessary devices to be added as a device to be rented* (See at least paragraph 0118, showing that the user can select various items for rental.).

Kasahara does not specifically disclose the following:

- that the first database is a three-level hierarchical database;
- that the first database includes *a list of a plurality of necessary devices corresponding to each work content is stored;*
- *a rental management server that reads out a list of a plurality of necessary devices matching the work content selected through the data input device and rental information with regard to the necessary devices from the first database and the second database* (See at least paragraph 0117, in which an article selection screen is generated in response to child information entered by the user and the article master table.)*; and*

Although Kasahara does not specifically disclose that the first database is a three-level hierarchical database, Sol shows that the hierarchical database data structure is old and well known in the art (See Sol page 1, explaining what a hierarchical database is and how it works.). It would have been obvious for one of ordinary skill in the art at the time of the invention for the first database to be a three-level hierarchical database, because use of such a data storage technique can actually save memory space, as redundant information is minimized (for example, rather than store that each child is male or female, these designations can be categorical nodes in the hierarchical database, such that any data points beneath either node in the three structure will implicitly be categorizes as male or female, but will not need to store individualized information specifically stating as much.). Further, see Sol page 1, stating that the hierarchical model "is much more efficient than the flat-file model...because there is not as much need for redundant data. If a change in the data is necessary, the change might only need to be processed once." This passage shows that the hierarchical database structure has several real-world benefits over a standard relational database.

While Kasahara does not specifically disclose including in the first database a list of the necessary devices, and reading out the list, see at least paragraph 0117, showing the CPU generating and displaying to the user a listing of all articles of clothing matching the user-entered information regarding a child. The articles of clothing displayed by Kasahara are not necessary, per se, but inclusive of everything that may fit a particular child.

In addition, Fukushima discloses a system that lists only the necessary devices required to perform the work described to it by the user (See at least Fukushima, paragraph 0007 and Claim #8).

It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the necessary-device-only data storage and displaying mechanism of Fukushima with the rental system of Kasahara (by, for example, storing in the first database and subsequently displaying a list of essential clothing items – pants, shirts, one-piece outfits, etc. – while also creating a separate list of accessory items that are not necessary but may be useful – gloves, hats, etc.), because such a combination would provide greater ease-of-use to the customer, thereby increasing the value and marketability of the product.

16. Claims 6 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasahara (US 2003/0040928, hereinafter Kasahara) in view of Fukushima et al. (JP-2002-157302 A, hereinafter Fukushima) and Sol ((*Introduction to Databases for the Web: Pt. 1*, hereinafter Sol) and further in view of Nishiyama (US 2002/0013712 A1, hereinafter Nishiyama).

Claim 6:

The rejection of claim 5 above is incorporated herein. Kasahara further discloses *the data input device further allows an entry of data indicating a rental period*

(See at least paragraph 0105, stating that the condition input screen "contains text boxes 57a to 57c for inputting a name, a date of the start of a rental period and a date of the end of the rental period respectively.").

Kasahara does not specifically disclose a rental period adjustment function. However, Nishiyama discloses a rental period adjustment function (See at least Nishiyama paragraph 0048, describing how rental periods can be finely tuned when knowledge of the rental calendar for certain items is known.)

It would have been obvious for one of ordinary skill in the art at the time of the invention to employ the rental period adjustment feature of Nishiyama with the rental system of Kasahara because employing such an adjustment feature can increase the efficiency of the rental system (specifically, by potentially maximizing the time during which an item is actually rented, rather than having small un-rentable gaps between rental periods).

Claim 7:

The rejection of claim 5 above is incorporated herein. Kasahara further discloses that *as a predefined detailed information display command is entered through the data input device, the rental management server reads out specification information corresponding to the necessary device from the device management database and provides the specification information to a customer* (See at least paragraph 0117, in which an article selection screen is generated in response to

child information entered by the user and the article master table, the article selection screen then being displayed to the user.).

Claim 8:

The rejection of claim 7 above is incorporated herein. Kasahara further discloses the following:

- *necessary devices used in a given application are grouped together and groups of necessary devices are stored in the third database* (See at least paragraph 0066, describing the rental master table, a listing of all of the items that are currently rented, grouped by reference to which child each item is rented.)*; and*
- *the rental estimation system further comprises a device switching device that selectively switches the necessary device to a device in a matching group when a predefined input is made through the data input device* (See at least paragraph 0122, where upon renting an item to a new child, the item is grouped appropriately in the rental master table.).

Claim 9:

The rejection of claim 7 above is incorporated herein. Kasahara does not specifically disclose *an adding device that sets an additional necessary device selected from the third database in response to a predefined device add command inputted through the data input device.*

Kasahara does disclose that multiple items can be selected via a check box associated with a displayed list of items (See paragraph 0117). This feature has essentially the same functionality as the device adding command limitation stated by the applicant. As such, it would have been obvious for one of ordinary skill in the art at the time of the invention to modify the invention of Kasahara with the use of a device adding command such as the applicant proposes in lieu of the check box adding method of Kasahara. Such a modification would ensure greater ease-of-use and a more robust graphical user interface, thereby bolstering the marketability of the product.

Response to Arguments

17. Applicant's arguments filed 6/29/2009 have been fully considered but they are not persuasive or are moot.

18. Regarding the 102 rejections, applicant claims that by amending the claim to recite that the terminals are "for devices used in construction work," and that the work content entered is "of the construction work," the claims are patentably distinguished over the prior art. The examiner disagrees. Although child information is not a "work content of the construction work," the specific type of data input in the system constitutes mere non-functional descriptive material unless the specific data somehow alters the physical structure of the invention. After all, a terminal must be distinguished from prior art terminals via structural

differences, rather than simply the type of data it transmits. Here, Kasahara presents a system that has the same elements as claimed, except the data transmitted constitutes different subject matter; the mere distinction of subject matter does not serve to patentably limit the invention because the elements themselves are not altered by the content of this data. As such, the content of the data does not distinguish the claim limitation from the prior art.

19. Regarding the 103 rejections, applicant claims that the additional limitations incorporated via amendment have overcome the prior art rejections. This is true, however a new grounds of rejection has been presented in view of these amendments, rendering such arguments moot.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **David Easwaran** whose telephone number is **571-270-5480**. The Examiner can normally be reached on Monday-Friday, 9:00am-5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **JANICE A. MOONEYHAM**, can be reached at **571-272-6805**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://portal.uspto.gov/external/portal/pair. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

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/DAVID S EASWARAN/
Examiner, Art Unit 3689

/Dennis Ruhl/
Primary Examiner, Art Unit 3689